STATEMENT SUPPORTING THE INFORMATION COLLECTION REQUIREMENTS FOR RISK MANAGEMENT PROGRAM REQUIREMENTS and PETITIONS TO MODIFY THE LIST OF REGULATED SUBSTANCES UNDER SECTION 112(r) OF THE CLEAN AIR ACT

EPA # 1656.09

1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) Title of the Information Collection Request

Risk Management Program Requirements and Petitions to Modify the List of Regulated Substances under section 112(r) of the Clean Air Act

1(b) Short Characterization

This information collection request (ICR) renews a previously approved ICR, OMB No. 2050-0144 approved through September 30, 2002, for 173,000 annual burden hours, which was corrected in November 1, 2000, to reflect the removal of propane retailers and users from the universe of regulated entities. The revised annual burden hours after the correction was 109,800.

This information collection request (ICR) addresses the following information requirements:

(1) Documenting sources' risk management programs and submitting a source risk management plan (RMP) under CAA Section 112(r)(7)

The regulations include requirements for covered sources to implement and maintain documentation for a risk management program and submit an RMP (including information on a source's hazard assessment, prevention program, and emergency response program) to EPA. EPA has assumed responsibility for maintaining a database of submitted RMPs. EPA has developed an electronic submission system (RMP*Submit) that is available to facilities on diskette and is available on EPA's internet.

(2) Collecting and submitting information to support petitions to modify the list of regulated substances under CAA Section 112(r)(3)

The regulations include requirements for a petitioner to submit sufficient information in support of a petition to scientifically support the request to add or delete a chemical from the list of regulated substances. The Agency will use this information in making the decision to grant or deny a petition. All the information collected requesting modification of the chemical listings is stored in a docket created for that purpose.

As described below, EPA developed and promulgated these regulations through several rulemakings. The rules are codified in 40 CFR Part 68.

The final rule establishing the list of regulated substances and threshold quantities under CAA section 112(r) was published on January 31, 1994 (59 FR 4478), which also includes provisions and procedures for submitting a petition to add or delete a substance. On January 6, 1998 (63 FR 940), EPA issued a final rule modifying the listing of regulated substances and threshold quantities. As part of this modification, EPA revised the definition of stationary source to clarify the exemption of transportation and storage incident to transportation after consultation with the U.S. Department of Transportation. EPA also finalized exclusions of explosives and naturally occurring hydrocarbons prior to processing and clarified coverage of flammables. In accordance with the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (CSISSFRRA) (P.L. 106-40), EPA revised the list of regulated flammable substances to exclude those substances when used as a fuel or held for sale as a fuel at a retail facility (March 13, 2000 (65 FR 13243)).

EPA issued a final Risk Management Program rule on June 20, 1996 (61 FR 31668). Part 68 provides for tiering of the regulatory requirements to take into consideration differences between various types and classes of sources, as well as the risk posed by the different sources. The regulatory program consists of three tiers of risk management programs. Sources are classified into program tiers based on the degree of risk posed by potential releases and coverage by OSHA's Process Safety Management (PSM) standard. Sources with processes classified as Program 1 pose little risk and face minimal compliance requirements. Sources with processes classified as Program 2 must implement a streamlined list of prevention program requirements. Sources with processes classified in Program 3 must complete a prevention program identical to that required by the OSHA PSM Standard (29 CFR 1910.119).

On January 6, 1999 (64 FR 964), EPA further revised Part 68 to (1) reflect the new industrial classification system that the U.S. government has adopted; (2) respond to recommendations on RMP data elements provided by the Electronic Submission Work Group of the Clean Air Act Advisory Committee and clarify other elements; and (3) establish specific requirements for the submission of confidential business information in RMPs.

The compliance schedule for the Part 68 requirements, established by rule on June 20, 1996, requires the implementation of source risk management programs and the submission of RMPs by June 21, 1999, for sources meeting the rule's applicability criteria. As a result, the burden to facilities for initial rule compliance, including rule familiarization and program implementation, is assumed to have taken place prior to the period covered by this ICR; these costs were accounted for in ICR 1656.03. Therefore, in this ICR, EPA has accounted for only ongoing program implementation costs and resubmissions of RMPs for currently covered facilities (as well as rule familiarization and program implementation costs for new facilities that become subject to these regulations after June 1999). Specifically, the costs to sources in this ICR include the following:

- Compliance costs for new sources.
- Submissions of revised RMPs for all sources by 2004, as required by rule, including any CBI claims.
- Updates of process hazard analysis or hazard reviews by 2004.
- Documentation of on-going implementation activities.

Because of the schedule for certain activities established in Part 68, some costs that occur in the three-year time period covered by this ICR did not occur during the previous three-year period. Most sources will have to revise their RMPs and update their process hazard analyses, hazard reviews, and

offsite consequence analyses in 2004, 5 years after submitting their initial RMPs (see 40 CFR 68.190(b)(1). Consequently, the record keeping and reporting costs for Part 68 fluctuate considerably from ICR to ICR.

2. NEED FOR AND USE OF THE COLLECTION

2(a) Need/Authority for the Collection

Risk Management Plans

Information collection for on-site documentation is authorized by CAA sections 112(r)(7)(B)(i) and (ii), which state that "The Administrator shall promulgate reasonable regulations and appropriate guidance to provide ... for the prevention and detection of accidental releases of regulated substances...." and "The regulations ... shall require the owner or operator ... to prepare and implement a risk management plan to detect and prevent or minimize accidental releases..." Information collection for submitting an RMP is authorized under CAA section 112(r)(7)(B)(iii), which states in relevant part that "The owner or operator of each stationary source...shall register a risk management plan...with the Administrator before the effective date of the regulations...in such form and manner as the Administrator shall, by rule, require...and shall be available to the public under section 114(c)." Information collection for on-site documentation and submittal of RMPs is also authorized by CAA 114(a)(1). The list and thresholds promulgated under CAA section 112(r)(3) determine which sources must comply with the accident prevention regulations; a source must comply with the CAA section 112(r)(7) regulations if it holds more than a threshold quantity of a listed substance in a process. State and local authorities will use the information in RMPs to modify and enhance their community response plans. The agencies implementing RMP rule will use RMPs to evaluate compliance with part 68 and identify sources for inspection because they may pose significant risks to the community. Citizens may use RMPs to assess and address chemical hazards in their communities.

Petitions

This information collection is authorized under CAA section 112(r)(3), which states in relevant part that "The Administrator shall establish procedures for the addition and deletion of substances from the list established under this paragraph consistent with those applicable to the list in subsection (b)." The information collected during the petition process will provide the primary basis for EPA to determine if it is appropriate to add or delete a chemical. To be consistent with the petition process under CAA section 112(b), EPA is required to consider and respond to petitions to modify the list of regulated substances within 18 months of submission of the petition; complete data supporting the petition are necessary to allow EPA to finish its review within that time period.

2(b) Use/Users of the Data

Risk Management Plans. The information collected in the RMP is critical for assisting government agencies in assessing the quality and thoroughness of a source's hazard assessment, prevention program, and emergency response program. The information also would be used by state and local emergency planners to prepare or modify community response plans and to identify hazards to the community and provide a basis for working with sources to prevent accidents.

Risk Management Programs. Documentation of the implementation of risk management programs is necessary to assist government agencies in determining whether a source has complied with the regulations. In some cases (e.g., safety information and operating procedures), the documentation is a critical requirement of the rule, providing the basis for other rule elements.

Petitions. The information collected in support of a petition to modify the list of regulated substances is to be used by EPA to determine whether to grant or deny a petition to add or delete a chemical from the list.

3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3(a) Nonduplication

Risk Management Plans. Some sources may have submitted information to EPA Headquarters or Regions under other regulations (i.e., Form R or RCRA Biennial Reports) that is similar to the information requested in the registration form under these regulations. (EPCRA Section 312 Tier II forms, which include similar information, are submitted only to states and local planning authorities, not EPA.) The information available through Form R and RCRA Biennial Reports is scattered, unorganized, and incomplete for the requirements of the Act. In addition, most sources covered by this rule are neither manufacturers (Form R) nor are permitted under RCRA (Biennial Report), and thus have not previously submitted this information. For EPA to best comply with the Act, it is most beneficial if the information requested for registration is submitted in a concise and organized format, using the RMP form.

Confidential Business Information. Some sources may have submitted substantiation of CBI claims for chemical identity or other information to EPA Headquarters or Regions under other regulations that is similar to the information requested under these regulations. For EPA to best comply with the Act and most effectively evaluate such claims, it is most beneficial if the CBI substantiation accompanies the submission of the RMP.

3(b) Consultations

As discussed in previous ICRs, EPA conducted substantial consultations with all stakeholders during the original rulemaking process and all the amendments EPA published. In January 2002, EPA held the Accident Prevention Subcommittee meeting to discuss various issues including RMP compliance. The committee members include industry groups, state and local governments, EPA and other federal government agencies. State representatives reported 90 to 95 percent compliance in most of the states.

3(c) Public Notice

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), the Agency notified the public through the *Federal Register* notice on the resubmission of this ICR on **April 16, 2002 (67 FR 18603).** No comments were received.

3(d) Effects of Less Frequent Collection

Sources are required to register and submit an RMP only once every five years, unless there are significant changes in the information provided. There is a statutory requirement for sources to register, submit, and update an RMP.

3(e) General Guidelines

CAA section 112(r)(7)(B)(iii) requires that sources update their RMPs periodically. To maintain consistency with OSHA PSM requirements, EPA's implementing rule requires sources to update PHAs and hazard assessments every five years. Thus, sources are required to maintain such documentation for five years, which is greater than the three years specified in OMB's general guidelines.

3(f) Confidentiality and Sensitive Questions

(i) Confidentiality

Some of the elements mandated in the regulation for the risk management plan may require the submittal of data viewed as proprietary, trade secret, or confidential. As described above, EPA has adopted procedures for sources to claim certain information as confidential business information.

(ii) Sensitive Questions

No questions of a sensitive nature are included in any of the information collection requirements. The information submitted in an RMP includes information on a source's hazard assessment, prevention program, and emergency response program, and the information submitted in support of a petition to modify the list of regulated substances includes toxicity data and accident history data. This information is not private. The information collection requested under the EPA rulemaking is in compliance with the Privacy Act of 1974 and OMB Circular A-108.

4. THE RESPONDENTS AND THE INFORMATION REQUESTED

4(a) Respondents/NAICS Codes

Risk Management Programs and Plans

The accidental release prevention program under the CAA was developed for sources that manufacture, react, mix, store, or use regulated substances in processes that require equipment designed, constructed, installed, operated, or maintained in specific ways to prevent accidental releases and ensure safe operations. The CAA requires sources to comply with the regulations if they have more than a threshold quantity of a listed regulated substance. Based on submissions of RMPs, the rule applies to manufacturers (i.e., sources categorized in North American Industry Classification System (NAICS) codes 31-33), as well as some non-manufacturers, including federal facilities, utilities (NAICS code 221: electric utilities, drinking water systems, wastewater treatment works), warehouses, large ammonia refrigeration systems (e.g. food processors and distributors), wholesalers, ammonia retailers, and gas processors.

Petitions

Any person may petition EPA to modify, by addition or deletion, the list of regulated substances. Potential petitioners are likely to include environmental groups, industry, and state and local agencies. Due to the nature of their activities, the chemical manufacturing sector is likely to be the primary industry producing, using, or storing listed regulated substances affected by the petition process. Since the list rule was promulgated in January 1994, however, only one petition has been submitted to EPA; this petition was withdrawn. Based on this record, EPA assumes that no additional petitions will be submitted in the period covered by this ICR.

4(b) Information Requested

Data requirements and respondent activities vary by program level. Program 1 requires the least amount of data and time from respondents, while Program 3 requires the most. All sources are required to update and submit every five years an RMP that includes basic facility data, an executive summary, five-year accident history, data on the worst-case release scenarios (at least one for toxics and one for flammables), and data on emergency response regardless of their program classification. In addition, Program 2 and 3 sources must also submit data on alternative release scenarios (one for each toxic and one for flammables) and their prevention programs (by process). If a change at the source (e.g., a substantial change in the quantity held, a major modification of a source) leads to a change in certain data submitted in the previous RMP or requires an update to add a new process, the RMP must be revised and resubmitted. Depending on the event that triggers the need for an update, the source must resubmit the revised RMP either before the change is implemented (e.g., the addition of a new regulated substance) or within six months of the change (e.g., a major process modification).

The ICR assumes that all previously covered sources submitted RMPs on schedule. Because RMPs must be revised within five years of initial submission, the ICR assumes that all RMPs will be revised during the period covered by this ICR. This assumption is conservative because some RMPs may not need to be updated until a later period.

(i) Data Items

Risk Management Plans

Registration. Sources must submit the following information to EPA in the registration section of the RMP:

- Name and location of the stationary source, and latitude and longitude, as well as the method used to determine the latitude and longitude and an indication of the specific location at the source that it represents;
- The name, telephone number, and mailing address of the owner/operator of the source;
- Name and title or position of the person responsible for RMP implementation at the source;
- Name, title, and phone number of the emergency contact at the source;

- The source's (and parent company's, if applicable) Dun and Bradstreet number, which is a common identifier for sources and would allow EPA to cross-reference the data with other EPA databases;

- For each covered process, the names, CAS numbers, and quantities (to two significant digits) of all regulated substances and the applicable NAICS code(s);

- Number of full-time employees at the source;

- Whether the source is covered under the OSHA PSM program and EPCRA 302;

- The sources CAA Title V permit number (if applicable); and

- Date of the last safety inspection and the inspecting entity.

Voluntary data elements that may be provided as part of the registration include the LEPC for the planning district in which the source is located and, to support communication with the public, a public contact phone number for the source, the WWW homepage address of the source or its parent company, and the e-mail address of the source.

Program 1. Sources with Program 1 processes are required to prepare an executive summary and include a five-year accident history and emergency response data in their RMP. In addition, for Program 1 processes, owners/operators are required to document the worst-case release in the RMP and certify that:

(1) Their worst-case release would not reach any public receptors;

(2) The process has had no accidents in the previous five years that resulted in certain impacts offsite; and

(3) Public emergency responders will not enter within certain distances except as previously arranged.

Programs 2 and 3. Sources with Program 2 and Program 3 processes are required to submit an RMP that includes the following information:

- An executive summary;

- A five-year accident history for each incident that caused specific on-site or offsite impacts from a release of a regulated substance held above its threshold in a covered process;

- The results of the offsite consequence analysis (OCA) (worst-case and alternative release scenarios);

- Information concerning the prevention program and process hazards, controls, mitigation systems, and detection systems identified during the PHA or hazard review for each covered process;

- Information concerning emergency response steps and coordination with the LEPC plan; and

- Certification of the accuracy of the information submitted.

The documentation of changes in the offsite consequence analysis is considered in the RMP costs.

Risk Management Programs

Prevention Program Documentation

All covered sources with Program 2 or 3 processes will need to conduct and document a compliance audit within the three-year period of this ICR. All covered sources are assumed to update their PHA or hazard review and document the revisions during the year before June 2004. Based on accident data in the RMPs, only chemical manufacturers are assumed to incur costs for accident investigation and to have reportable accidents during the period. Other facilities may have such accidents, but the number of such reports is very low and is not included in the burden estimation.

The only other on-going costs for documentation for Program 2 processes are for keeping the safety information and operating procedures up-to-date. For Program 3 processes, the on-going costs include keeping Process Safety Information (PSI) and Standard Operating Procedures (SOPs) up-to date, documenting refresher training, training of new employees, maintenance, and management of change.

Program 1. Program 1 processes have no prevention programs and, therefore, no documentation requirements.

Program 2. The prevention program documentation associated with Program 2 processes consists of information that will be generated automatically during the development of the SOPs, compliance audits, and safety information. Program 2 sources must maintain the following specific on-site documentation:

- Records of the hazard assessment, including data and assumptions used, and descriptions of alternative and worst-case release scenarios (updated once every five years);

- Written operating procedures for each Program 2 process;

- Hazard review report using models, checklists, or What Ifs (updated once every five years);

- Compliance audit reports.

Program 3. Most Program 3 processes are covered by OSHA's PSM program. Therefore, only those sources and processes subject to Program 3 only under the RMP rule incur the costs of maintaining prevention program documentation. The documentation consists of information that will be generated automatically during the development and performance of the hazard assessment, the PHA, safety

information, the SOPs, the maintenance and training programs, compliance audits, management of change, accident investigations, and emergency response. Documentation for Program 3 sources will include the following:

- Records of the hazard assessment, including data and assumptions used, and descriptions of alternative and worst-case release scenarios (updated once every five years);
- Chemical and process information, including equipment specifications, and diagrams of equipment, piping, pumps, valves, controls, and instrumentation (P&IDs) for each Program 3 process;
- The process hazard analysis report and management steps to address identified hazards (updated once every five years);
- Written operating procedures for each Program 3 process;
- Records of all training programs;
- Records of the maintenance program, including inspection and testing schedules;
- Procedures for conducting pre-startup reviews;
- Procedures used for managing changes in processes, operations, and procedures;
- Compliance audit reports;
- Accident investigation procedures.

Sources and processes covered by OSHA's rule are already required to maintain all of this information (except the hazard assessment) on site and are assumed to incur only the additional costs to maintain on-site records of the hazard assessment. There are assumed to be no additional costs associated with developing pre-startup review and management of change procedures because all Program 3 sources are already required to have such procedures in place under the OSHA PSM program.

Emergency Response Program. Any source that has an emergency response plan is subject to OSHA 29 CFR 1910.120(q); all costs for updating the plan accrue to the OSHA rule.

Confidential Business Information

Section 68.210 provides that information will be available to the public under CAA section 114(c), which provides for protection of trade secrets. To clarify procedures for submitting RMPs that contain confidential business information (CBI), EPA added two sections to the rule. In general, however, the rules governing CBI that already exist in 40 CFR part 2 will also apply and provide procedures for determining the appropriateness of CBI claims as well as the substantive criteria that must be met to assert such claims.

To assert a CBI claim, a source is required to submit a sanitized version of its RMP, which would

then become part of the RMP database. The sanitized version will identify each data element, except chemical identity, claimed as CBI by the notation CBI in the data field. For chemical identity, the source is required to provide a generic chemical category or class name in lieu of the actual chemical name. At the same time, the source is also required to submit to EPA the data claimed as confidential on a separate, paper form. The source must also substantiate why each item claimed as CBI meets CBI criteria. Substantiation information may be claimed as CBI; if all or part of the substantiation is claimed as CBI, a sanitized version of substantiation must also be filed with EPA. Review of the CBI claims will be handled as provided for in 40 CFR part 2.

Claiming data as CBI must be done at the time of submittal. The source's owner, operator, or senior official is required to certify the accuracy of the CBI substantiation claims.

Petitions

Any person may petition the Administrator to modify, by addition or deletion, the list of regulated substances in 40 CFR 68.130. Based on the information presented by the petitioner, EPA may grant or deny a petition. Under section 68.120(g), all petitions must contain the following information:

Name and address of the petitioner and a brief description of the organization(s) that the petitioner represents, if applicable;

- Name, address, and telephone number of a contact person for the petition;
- Common chemical name(s), common synonym(s), Chemical Abstract Service (CAS) number(s), and chemical formula and structure;
- Action requested (addition or deletion of a substance);
- Rationale supporting the petitioner's position - how the substance meets the criteria for addition or deletion. A short summary of the rationale must be submitted along with a more detailed narrative; and
- Supporting data - the petition must include sufficient information to scientifically support the request to modify the list. EPA believes that the information required to be submitted in support of a petition is the minimum information that would enable the Agency to determine whether to grant or deny a petition within the 18-month time frame. The information must include:
  - -- A list of all supporting documents;
  - -- Documentation of literature searches conducted, including, but not limited to, identification of the database(s) searched, the search strategy, dates covered, and printed results;
  - -- Effects data (animal, human, and environmental test data) indicating the potential for death, injury, or serious adverse human and environmental impacts from acute exposure following an accidental release. Printed copies of the data

sources, in English, should be provided; and

-- Exposure data or previous release accident history data indicating the potential for serious adverse human health or environmental effects from accidental releases. These data might include, but are not limited to, physical and chemical properties of the substance (such as vapor pressure); modeling results (including data and assumptions used and model documentation); and historical accident data, citing data sources.

(ii) Respondent Activities

Rule Familiarization

All newly affected sources are expected to spend time to read and understand the rule requirements when they first become subject to part 68. For sources subject to the rule prior to September 2002, rule familiarization was estimated in previous ICRs. As a result, only new sources are expected to undertake rule familiarization under this ICR.

Risk Management Programs and Plans

Program 1. Because no new Program 1 sources are included in the estimates for this ICR, no burden estimates are provided; existing sources with Program 1 processes are not expected to incur any recordkeeping burden during the period covered by this ICR.

Program 2. Program 2 sources incur the burden of preparing or revising their RMP and maintaining specific prevention program documentation of the items listed in the previous section. The burden estimates for preparing the RMP and maintaining documentation for sources with Program 2 processes are presented in section 6(a) of this ICR.

Program 3. Program 3 sources will incur the burden of assembling information for the purpose of maintaining documentation and preparing and revising their RMP. The burden estimates for sources submitting an RMP for Program 3 processes are presented in section 6(a) of this ICR.

Confidential Business Information

A limited number of sources with processes in Program 2 and Program 3 may seek to claim certain RMP information as confidential business information. The activities required for such sources include the preparation of a sanitized RMP (estimated as described above for all sources) and a substantiation of the claim for each data element (and potentially the substantiation itself) claimed as confidential, the list of unsanitized data elements and the submission of these documents to EPA at the time of the submission of RMP. Burden estimates for these activities are presented in section 6(a) of this ICR.

Petitions

As noted above, EPA does not anticipate any petitions during the period that this ICR covers, based on the experience of the past eight years. Therefore, no burden estimates for petitions are included.

5. THE INFORMATION COLLECTED C AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT

5(a) Agency Activities

The burden and cost estimates developed for the following state and local government activities are presented in section 6(c) of this ICR. The burden estimates developed for the following federal government activities are presented in section 6(c) of this ICR.

State/Local Program Management

State or local agencies may seek approval from EPA to serve as the implementing agency for Part 68. Based on current delegations and applications, EPA projects that by the end of the period covered by this ICR, approximately 15 states will have been granted delegation. These states will be required to implement and enforce the program for all or some of the sources in their states. Implementing agencies will need to keep records of reviews, audits, and inspections conducted, any administrative and legal actions taken, and other correspondence between the agency and sources, other agencies, EPA, and the public. Implementing agencies will also need to document their budgets, for internal purposes, and any agreements they reach with other state, local, or federal agencies. To receive delegation of the program from EPA, a state must be able to show that it has the personnel and other resources to perform these tasks.

Federal Program Management

EPA will serve as the implementing agency for any state that does not seek or is not granted delegation. EPA will need to keep records of reviews, audits, and inspections conducted, any administrative and legal actions taken, and other correspondence between the agency and sources, other agencies, and the public. EPA will also need to document its budgets, for internal purposes, and any agreements it reaches with other state, local, or federal agencies.

Risk Management Plans

EPA will provide RMP submission software on diskette and paper forms, and will process the data from submitted RMPs into a database. (Note: RMPs are required in electronic format. A waiver may be obtained for filing on paper if necessary.) The Agency expects to perform the following activities:

- Make the RMP software and forms available;
- Process the RMPs submitted by sources into a database and make the information available through various means;
- Answer any questions from sources concerning the process;
- Process any claims of confidential business information;

- Notify each submitter of the status of their RMP (complete or incomplete);
- Store RMP submissions and retrieve information; and
- Provide technical assistance to facilities.

EPA has developed and made available RMP*Submit, a software package that creates an electronic file for submission. RMP*Submit includes pick lists for certain data elements, chemical names, LEPCs from which a source may choose). EPA has posted the software and accompanying documentation on its web site. The material is also available from the EPCRA hotline.

RMPs are mailed on disks to a contractor operated reporting center that EPA has established. The records center processes RMPs submitted on disks and manually enters RMPs submitted on paper. The center also responds to questions from facilities and handles any CBI information. The reporting center is not responsible for the development of the software but uses its various applications to create, maintain and transmit. EPA has created a database of RMPs, RMP*Info and a program RMP*Review to help users of the database search and sort data. The database is updated periodically.

5(b) Collection Methodology and Management

Respondents complete an RMP electronically or on paper. EPA manages the data as discussed in section 5(a).

5(c) Small Entity Flexibility

The rule includes several measures to reduce the burden to small entities. Most sources subject to Program 3 requirements are already required to comply with the OSHA PSM program. All other sources face reduced requirements under Programs 1 and 2. In addition, the quantity of information submitted in the RMP and the associated burden varies with the size of the source (i.e., smaller sources would have a lower burden). EPA has developed industry-specific guidance documents to help smaller facilities comply with the rule. Therefore, the RMP regulations do not impose a disproportionate burden of compliance on small sources.

5(d) Collection Schedule

Sources with more than a threshold quantity of a listed substance in a process were required to be in compliance with the risk management program and submit an RMP by June 21, 1999. After submitting an RMP, a source must update it by the time it adds a new (to the source) listed substance in a process above threshold quantity. Also, if certain other information provided in the RMP becomes inaccurate at any time after submission, the source is required to submit an amended RMP within six months of the change. Otherwise, sources are required to resubmit their RMP within five years of their last submittal even if other RMP data change during the five-year period (e.g., RMPs need not be updated in cases such as change in number of employees, contact names etc.).

6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

Because the burden for many of the activities varies based on the size and complexity of the source, the respondents were divided into five categories: small/medium chemical manufacturers, high complexity chemical manufacturers, other manufacturers, non-manufacturers, and chemical wholesalers. For each category and each activity, a weighted average for unit burden was developed. Where the

activities would be performed by people in several labor categories (legal, management, technical, and clerical), burden estimates are divided into those categories. Exhibit 1 provides the estimated number of respondents in each category and the estimated number of respondents in each category who are not subject to the OSHA PSM standard. Exhibit 2 provides the wage rates used and the source of each rate. Exhibits 3 through 6 provide the unit burden estimates. All exhibits are at the end of this document.

6(a) Respondent Burden

Respondent Burden for New Facilities

Rule familiarization, which applies only to facilities newly subject to the RMP rule, is estimated to take 35.0 hours. Based on the number of new RMPs submitted between June 2000 and January 2002 (735), EPA estimates that there will be approximately 490 new facilities annually. The total burden for one year is estimated to be 17,640 hours; the cost is estimated to be $374,250.

New facilities also have costs for developing documentation for prevention program elements. For facilities not subject to the OSHA PSM standard, these costs include collection of safety information and development of standard operating procedures. Based on recent new RMPs received, EPA estimates that only 55 of the new facilities a year will not be subject to the PSM standard. The unit burden hours are shown in Exhibit 3. The estimated burden for the 55 new facilities for developing prevention program documentation is 609 hours and $12,900 (see Exhibit 7).

Respondent Burden for RMP

Each respondent is expected to revise and submit an RMP by the June 21, 2004. Although some facilities have revised their RMPs and have new submission dates, most of those dates will fall within the three-year period covered by this ICR. To be conservative, the ICR assumes that all RMPs will be revised within the time covered by this ICR. The unit burden hours for each industry group are shown in Exhibit 6. Total burden hours for preparing and submitting revised RMPs is estimated to be 107,480 at a cost of $3,287,000 (see Exhibits 9 and 10)

Respondent Burden for Documentation

Each respondent not subject to the OSHA PSM standard is assumed to incur costs to update prevention program documentation. Operating procedures and safety information must be revised as necessary; EPA assumes that facilities spend about one tenth the time needed to create the documents to check and revise them each year. Facilities also must document an audit every three years. In the period covered by this ICR, facilities will also need to update their hazard review or process hazard analysis, which EPA estimates will take half the time of the original analysis. Finally, the few chemical facilities not subject to PSM but covered by Program 3 need to document training, maintenance, accident investigation, and management of change procedures. See Exhibit 5 for unit burden hours. The total three-year burden hours for the on-going documentation are 110,600 hours and $2,966,000 (see Exhibit 11).

Respondent Burden for Confidential Business Information Claims

The requirement that substantiation for CBI claims be submitted with the claims will impose costs on those sources making the CBI claims. In this ICR, EPA estimates that only the 21 facilities who have already submitted CBI claims will do so when they submit their next RMPs.

Based on professional judgement, EPA estimates that the time required to develop and submit CBI substantiation is 9.5 hours per claim; EPA assumes that approximately 5.5 technical hours, 3 managerial hours, and 1 legal hour will be spent in the preparation of each CBI claim. Other ICRs and ICR proposals, combined with the changes to the method of documenting CBI claims, indicate that a burden estimate between 5.21 and 9.5 hours per facility is appropriate for this rule. EPA has selected the most conservative of these, 9.5 hours. As a result, for the 21 sources preparing and submitting CBI claims, the estimated industry burden is 200 hours and the total cost is estimated to be $11,000 (see Exhibits 4, 7, and 10). The CBI costs are assumed to occur in the second year of this ICR period, with the submission of the RMP.

Respondent Burden for Petitions

As noted above, because the Agency has received only one petition since the publication of the final list of regulated substances in January 1994, for the purposes of this ICR, EPA is not estimating any further petitions.

6(b) Estimating Respondent Costs

(i) Estimating Labor Costs

Labor costs are estimated by multiplying the burden hours by the applicable wage rates shown in Exhibit 2. Wage rates are based on data from the Bureau of Labor Statistics on wage rage and fringe benefits for general manufacturing and non-manufacturing and for the chemical industry. Total three-year costs and costs per year are presented in Exhibits 10 through 12.

(ii) Estimating Capital and Operations and Maintenance Costs

Respondents are not expected to incur any capital costs to implement this rule. At present, RMPs are submitted on disk or paper. In accordance with the Government Paperwork Elimination Act, EPA is developing a system to accept submissions electronically by the GPEA deadline of October 2003. EPA, therefore, anticipates that the RMP update submissions in 2004 will be made electronically and impose no additional costs on respondents. If all submissions were still mailed, costs would total only $6,150 (see Exhibit 11).

Sources are not required or expected to use consultants to prepare and submit their RMP or their documentation. The RMP program has been specifically designed, by simplifying the requirements and allowing sources to use prepared forms and models, to eliminate the need for sources to use consultants to meet the requirements of this program.

6(c) Estimating Agency Burden and Cost

The risk management program rule is implemented by both EPA and state and local governments who have sought and been granted delegation.

Implementing Agency Costs

EPA estimates that 15 states will have obtained delegation during the period covered by this ICR. EPA will serve as the implementing agency for all other states. Implementing agencies are expected to review RMPs, audit RMPs, inspect sources, provide technical assistance, and conduct standard program management activities (e.g., developing budgets, filing administrative orders and enforcement actions).

Initial reviews, which are first checks of the RMPs to identify any problems (e.g., clear inconsistencies in reported data, failure to list obvious hazards such as flammability for a listed flammable) are estimated to require one to five hours, depending on the number and complexity of processes covered in the RMP. Audits are assumed to be detailed reviews of the RMPs, requiring from two to twelve hours per RMP; audits require technical staff capable of identifying data that may indicate safety problems (e.g., failure to report chemical or process hazards, which could indicate an inadequate PHA, or lack of normal process controls, which could indicate either an incomplete RMP or inadequate safety practices). Audits may be totally offsite or may include a site visit to review documentation and other aspects of the program. The results of the audits will help select sources that may require inspection to determine whether the source is in compliance with the rule and operating safely. Inspections are site visits to review the activities and documentation. Inspections are estimated to take 8 to 50 hours. Implementing agencies are expected to review all RMPs over five years. Frequency of audits varies by sector, with chemical companies being audited every five to ten years and all others audited every 10 years. Inspections are estimated to occur every five to fifteen years, depending on the sector.

Program management is assumed to involve two experienced staff for a larger state and per region, one-fifth of an FTE for an attorney, and one-tenth of an FTE of clerical time. Of the 15 states that have or are seeking delegation, five have fewer than 42 RMP facilities; these smaller states are assumed to have a single manager who spends only a quarter of his or her time on the RMP program.

Recordkeeping related to management and reviews/audits/inspections is assumed to take 10 percent of the total time required, except for inspection reports, which are assumed to take 12.5 percent of the total time for inspections. The estimated burden for recordkeeping related to these activities is 11,000 hours (6,160 for states and 4,840 for EPA annually). The total annual cost is estimated to be $556,000 ($221,000 for states and $335,000 for EPA) (see Exhibits 13 and 14).

EPA assumes that states will maintain files electronically and will not incur additional capital costs.

6(d) Estimating the Respondent Universe and Total Burden and Cost

Universe. The estimates of the universe used in the previous ICRs have been revised to reflect the actual number of RMPs submitted to EPA, adjusted for non-compliance based on reports from the EPA Regions and state implementing agencies. As a result, there has been a decrease in the estimate of the number of facilities subject to these requirements to about 16,635 respondents.

EPA has not estimated any change in the size of the regulated universe over the three years covered by this ICR. Based on its experience with similar regulatory programs and the experience of states with their own risk management program laws, EPA believes that a certain number of facilities will choose to reduce their inventory of regulated substances to a level below the threshold quantity, or switch to a non-regulated substitute, and thus reduce the size of the regulated universe. As a result, and based on current industry growth trends, EPA believes that a decrease, rather an increase occurred in the number of facilities covered by these regulations is more likely to occur, although no such decrease has been estimated. To account for new sources entering the universe, this ICR uses the number of new facilities who filed RMPs from June 2000 to January 2002. (EPA assumes that the RMPs submitted between the required submission date of June 1999 and June 2000 reflect late submissions rather than facilities who were newly subject to the rule.)

Total Burden and Cost

The total burden hours for respondents (including states) is estimated to be 97,160 annually. Because of the timing of the five-year submission of the RMPs and update of the hazard reviews, the burden hours vary significantly over the period covered by this ICR. In the first and third year of this ICR, the burden hours for sources are estimated to be 45,000 (combined 90,000 hours); in the second year, they are estimated to be 183,000.

The total annualized cost to respondents (states and facilities) is estimated to be $2.7 million. As with burden hours, these costs vary considerably across the years, with respondents costs of $1.1 million in the first and third years and $5.9 million in the second year. The three-year burden and costs are estimated to be 291,480 hours and $8.1 million.

6(e) Bottom Line Burden Hours and Cost Tables

Bottom line burden and cost tables are Exhibit 11 and 12.

6(f) Reasons for Change in Burden

This ICR estimates a total decrease in the facilities burden of $2.5 million from $9.9 million to $7.4 million for the ICR period. The burden hours would decrease from 98,100 annually to 91,000 annually. The decrease in cost reflects the revised estimate of the number of facilities based on the actual number of RMPs filed, adjusted for non compliance, and a change in the mix of facilities estimated, again based on actual RMPs filed; the actual universe has proportionately fewer manufacturers, who incur higher costs because of more complex processes, and more lower cost facilities. State agency costs are projected to decrease from 35,000 hours and $1.25 million for the ICR period to 18,480 hours and $664,000. States costs have declined because they have been adjusted to reflect the actual number of implementing agencies (15 rather than 20) and a lower projected level effort based on the actual number of respondents in the 15 states. Wage rates for both facilities and states have been adjusted upward to 2001 dollars and reflect current levels of benefits. Because no on-going activities are expected to require consultant help, wages rates are not loaded for overhead.

6(g) Burden Statement

The public reporting burden will depend on the regulatory program tier into which sources are categorized. In this ICR, the respondent burden for rule familiarization is estimated as 35 hours per

source and other initial compliance at 11 hours. The respondent to prepare and submit an RMP is estimated to take 5.0 hours for retailers to 28 for complex chemical manufacturers. The respondent burden to maintain on-site documentation is estimated to range from 4.5 hours for retailers to 355 hours for complex chemical manufacturers. The reporting burden for CBI claims is estimated to be 9.5 hours for certain chemical manufacturing sources. The total respondent burden to become familiar with the rule, complete and submit (or revise) the risk management plan, maintain on-site documentation, and substantiate claims for confidential business information is estimated to be about 273,000 hours over three years, or an annual burden of 91,000 hours. The three-year burden estimated for 15 states that may be implementing Part 68 program is 18,480 hours, or an annual burden of 6,160 hours. Therefore, the total burden for all facilities and states is estimated to be 291,480 hours for three years, or an annual burden of 97,160 hours.Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Officer for EPA. Include the EPA ICR number and OMB control number in any correspondence.

APPENDIX

EXHIBIT 1
NUMBER OF FACILITIES

	Total Facilities	**Facilities Not Subject to OSHA PSM**
Small/medium chemical	1666	258
Large high complexity chemical	457	11
Other manufacturers	2319	332
Non manufacturer	11448	7410
Wholesale	744	276
Total	**16634**	**8287**

EXHIBIT 2

WAGE RATES - RESPONDENTS

	Legal	Management	Technical	Clerical	Source
Chemical Manufacturers	$ 100.00	$58.92	$46.20	$17.08	OES 2000/SIC 28 median wage for engineering manager, chemical engineer, and office clerk general multiplied by fringe load from BLS Table 12 executive, technical, and clerical in manufacturing section
Other Manufacturers	$ 100.00	$47.00	$29.40		BLS Table 12
Non Manufacturers	$ 100.00	$21.22	$21.22		BLS Table 10 – 40% retail, 60% trans/utility
Wholesale	$ 100.00	$22.83	$22.83		BLS Table 10

WAGE RATES - STATE AND FEDERAL

State	Wage	Source	Loaded Rate	Fringe Rate Source
Attorney	$30.86	OES state	$41.09	BLS Table 4 professional
Environmental Engineer	$25.58	OES state	$36.39	BLS Table 4 management
Clerical-office clerk general	$11.94	OES state	$17.87	BLS table 4 clerical
Federal				
Attorney	$44.85	GS 15-5	$64.07	Assume 30% load
Environmental Engineer	$32.36	GS 13-5	$46.23	Assume 30% load
Clerical-office clerk general	$12.35	GS 5-5	$17.64	Assume 30% load

BLS = Employer Costs for Employee Compensation – March 2001
OES = Occupational Employment Statistics – Specific Occupational Employment and Wage Estimates

EXHIBIT 3
RESPONDENT UNIT BURDEN HOURS – NEW FACILITIES

New Facilities	Management	Technical
Rule Familiarization	12	24
Safety Information		3
SOPs		8

EXHIBIT 4
RESPONDENT UNIT BURDEN HOURS –CBI

Legal	Management	Technical
1	3	5.5

EXHIBIT 5
UNIT BURDEN FOR PREVENTION PROGRAM DOCUMENTATION BY SECTOR
(Technical Hours)

	PSI	PHA	SOPs	Training	Refresher Training	Maintenance	Audit	Accident Investigation	Management of Change
Small/medium chemical	2.5	40	5				3		
Large high complexity chemical	5	100	28	23	8	140	12	23	16
Other manufacturers	1	12	2				3		
Non manufacturer	0.5	2	1				1		
Wholesale	0.5	2	0.5				1		

EXHIBIT 6
UNIT BURDEN FOR RMP BY SECTOR

	Technical	Management
Small/medium chemical	9	2
Large high complexity chemical	24	4
Other manufacturers	5	1
Non manufacturer	4	1
Wholesale	6	1

EXHIBIT 7
TOTAL BURDEN HOURS - NEW FACILITIES AND CBI

	Legal	Management	Technical	Total
CBI claims - 3 year	21	63	115.5	200
New Facilities-Annual				
Rule Familiarization		5,880	11,760	17,640
Safety Information			166	166
SOPs			443	443

EXHIBIT 8
TOTAL BURDEN HOURS - PREVENTION PROGRAM - ANNUAL

	PSI	PHA	SOPs	Training	Refresher Training	Maintenance	Audit	AI	MOC	TOTAL
Small/medium chemical	644	10,311	1,289				773			13,018
Large high complexity chemical	56	1,111	311	256	89	1556	133	256	178	3,944
Other manufacturers	332	3,987	664				997			5,980
Non manufacturer	3,705	14,820	7,410				7,410			33,345
Wholesale	138	551	138				276			1,102
TOTAL	**4,875**	**30,780**	**9,812**	**256**	**89**	**1,556**	**9,589**	**256**	**178**	**57,389**

EXHIBIT 9
TOTAL BURDEN HOURS FOR RMP BY SECTOR - THREE YEAR

	Technical	Management
Small/medium chemical	14,990	3,331
Large high complexity chemical	10,968	1,828
Other manufacturers	11,594	2,319
Non manufacturer	45,791	11,448
Wholesale	4,467	744
TOTAL	**87,810**	**19,670**

EXHIBIT 10
ESTIMATED TOTAL THREE-YEAR BURDEN COSTS

	RMP	Prevention	CBI	Initial Compliance	Total
Small/medium chemical	$888,845	$851,561			$1,740,405
Large high complexity chemical	$614,454	$278,050	$11,148		$903,653
Other manufacturers	$449,864	$293,020			$742,884
Non manufacturer	$1,214,380	$1,493,500		$1,161,491	$3,869,372
	$118,970	$50,327			$169,297

Wholesale					
TOTAL	**$3,286,514**	**$2,966,458**	**$11,148**	**$1,161,491**	**$7,425,611**

EXHIBIT 11
TOTAL BURDEN HOURS AND COSTS – THREE YEAR

	Labor Hours	**Labor Costs**	**Other Costs**	**Total Costs**
RMP	107,480	$3,286,514	$6,154	$3,292,668
Prevention	110,608	$2,966,458		$2,966,458
CBI	200	$11,148	$7.77	$11,156
Initial Compliance	54,746	$1,161,491	$544	$1,162,035
Total	**273,034**	**$7,425,611**	**$6,706**	**$7,432,318**

EXHIBIT 12
TOTAL COSTS FOR ALL FACILITIES BY YEAR

	Initial Compliance	**RMPs**	**Prevention Program Documentation**	**CBI**	**O&M**	**TOTAL COSTS**
Year 1	$387,164		$664,838		$181	$1,052,183
Year 2	$387,164	$3,286,514	$1,636,782	$11,148	$6,342	$5,327,950
Year 3	$387,164		$664,838		$181	$1,052,183
COSTS	**$1,161,491**	**$3,286,514**	**$2,966,458**	**$11,148**	**$6,704**	**$7,432,316**

EXHIBIT 13
TOTAL *ANNUAL* HOURS AND COSTS OF PROGRAM IMPLEMENTATION DOCUMENTATION
(States)

	Reviews	**RMP Audits**	**Inspections**	**Program Management**	**Total Hours**

Hours	106	175	519	5,356	**6,157**
Costs	$3,854	$6,376	$18,898	$192,048	**$221,176**

EXHIBIT 14
TOTAL *ANNUAL* HOURS AND COSTS OF PROGRAM IMPLEMENTATION DOCUMENTATION (EPA)

	Reviews	**RMP Audits**	**Inspections**	**Program Management**	**Total Hours**
Hours	320	530	1,570	2,420	**4,840**
Costs	$14,801	$24,488	$72,580	$222,634	**$334,504**

EXHIBIT 15
TOTAL BURDEN AND COST OF EPA-ONLY PROGRAM ACTIVITIES
(Hours and 1998 dollars)

	Annual Hours	**Documentation Hours**	**Three-Year Hours**	**Three-Year Costs**
EPA Records Center	18,800	--	56,400	$2,100,000
Entering RMPs	6,300	--	19,000	$237,500
Maintaining RMP*Info and RMP*Submit	7,000	--	21,000	$1,500,000
TOTALS	**32,100**	2,300	103,200	$3,837,500